

§ 260.10

20 CFR Ch. II (4–1–98 Edition)

that in the event that pursuant to the preceding proviso, material evidence is developed which tends to show facts contrary to those found by the hearings officer, or in the event that the appellant shows that he is ready to present further material evidence, which for good reason he was not able to present to the hearings officer, the claim may be referred back to the hearings officer. Thereupon, the hearings officer shall develop additional evidence for inclusion in the record, review the entire case, and shall:

(1) Issue his or her decision on remand or

(2) Transmit the entire record to the Board together with his or her recommendation to the Board for final decision. All remand decisions are final intermediate level administrative decisions which dispose of the appeal before the Board and if an appellant is dissatisfied with a remand decision he or she must appeal that decision to the Board in the manner described in § 260.9(b).

(e) *Decision of the Board.* The decision of the Board shall be made upon the record of evidence and argument which has been made in the handling of the case before final appeal to the Board, with such additions as may be made pursuant to this section. Further argument will not be permitted except upon a showing by the appellant that he or she has argument to present which for valid reasons he or she was unable to present at an earlier stage or in cases in which the Board requests further elaboration of the appellant's arguments. In such cases, the further argument shall be submitted orally or in writing, as the Board may indicate in each case, and shall be subject to such restrictions as to form, subject matter, length and time as the Board may indicate to the appellant.

(f) *Issuance of decision.* The Board shall make every effort to issue a decision within 90 days after the later of:

(1) The date the final appeal is filed;

(2) The date new or better evidence is obtained in accordance with § 260.9(d) and the appellant has commented on it;

(3) The date new or better evidence is obtained in accordance with § 260.9(d) and after the close of the comment period;

(4) The date further argument submitted in accordance with § 260.9(e) is received; or

(5) The date the record is returned to the Board following referral back to the hearings officer.

(g) *Review of decisions rendered prior to appeal to Board.* The Board may, on its own motion, review or cause to be reviewed any decision issued by a subordinate official or employee under this part.

(The information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 3220-0007)

[47 FR 36809, Aug. 24, 1982, as amended at 50 FR 19523, May 9, 1985; 52 FR 11017, Apr. 6, 1987]

§ 260.10 Determination of date of filing of appeal.

In determining whether an appeal has been made in accordance with the regulations in this part, the date of filing a duly executed appeal form prescribed by the Board shall be the date of its receipt at an office of the Board or the date of delivery for the purpose of transmission to the Board's main office in Chicago, Illinois, to any field agent specifically authorized by a regional director to receive custody thereof in the district where delivery is made, whichever date is earlier.

PART 261—ADMINISTRATIVE FINALITY

Sec.

261.1 Reopening and revising decisions.

261.2 Conditions for reopening.

261.3 Change of legal interpretation or administrative ruling.

261.4 Decisions which shall not be reopened.

261.5 Late completion of timely investigation.

261.6 Notice of revised decision.

261.7 Effect of revised decision.

261.8 Time and place to request review of a revised decision.

261.9 Finality of findings when later claim is filed on same earnings record.

261.10 Increase in future benefits where time period for reopening has expired.

261.11 Discretion of the three-member Board to reopen or not to reopen a final decision.

AUTHORITY: 45 U.S.C. 231f.